

RESPONSE AND ARGUMENTS

There are no new amendments to the specification or the claims.

Claims 1-15 are pending in this application.

Claims 1-15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-36 of U.S. Patent No. 6561898.

This rejection is respectfully traversed.

Applicant's invention relates to a stud poker game that has multiple hands. The gaming machine is configured to allow the player to play a fixed number of hands or the player selects the number of hands that the player wishes to play. The wager is allocated among the number of hands that are to be played.

Once the player has made his wager, a plurality of initial partial hands are displayed to the player. Each initial partial hand has the same cards with the cards displayed face up to the player. The initial partial hand are randomly dealt from a single deck of playing cards. Each hand is then completed as a stud poker final hand by dealing the additional cards from either the

original single deck of cards (less the initially dealt cards) or from a plurality of partial depleted decks of playing cards, each depleted deck of playing cards comprising a full deck less the cards dealt as the initial partial hand.

As set forth in the independent claims, the initial partial hand has four cards with each four card hand having the same cards by suit and rank. A fifth card is dealt to each hand to complete a five card stud poker hand.

The player wins or loses depending on the poker hand ranking of each final hand. The amount won by the player is based on the poker hand ranking of each final hand and the amount wagered by the player according to a pay table. If the player achieves two or more final hands of the same poker hand ranking, the amount won by the player is increased, preferably as multiples of the original payout amounts.

In order for the Examiner to present a proper obviousness-type double patenting rejection, the inventions set out in Claims 1-15 of the present application must have been obvious modifications of the inventions recited in Claims 1-36 of the '898 patent.

Claims 1-36 of the '898 patent each include the step of allowing the player the option to increase or decrease his wager after the initial partial hands are displayed. This step is not claimed in Claims 1-15 of the present application and the Examiner has not put forth a prima facie case that it would have been obvious to delete this step in the inventions recited in Claims 1-36 since this step seems to be a critical step in the performance of the inventions of Claims 1-36 of the '898 patent.

As noted above, each of Claims 1-15 of the instant application include the step of multiplying the amount awarded to the player by pre-established multipliers based on the number of same poker hand rankings achieved by the player among the final stud poker hands. The Examiner has not addressed this step in his rejection and it is submitted that it would not have been obvious to modify the inventions recited in Claims 1-36 of the '898 patent to include this step.

The Examiner fails to give any basis in the prior art for the modifications proposed by the Examiner. In fact, there is no basis in the prior art that would teach or suggest such

modifications and the Examiner's conclusion seems to be based on hindsight gleaned from the Applicants' disclosure.

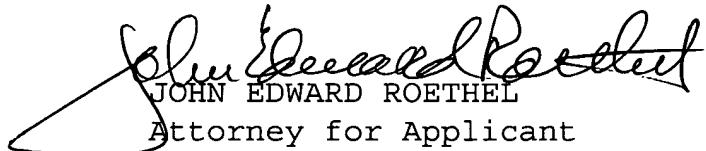
Furthermore, the modifications suggested by the Examiner as merely general conclusions based on what appears to be the Examiner's opinion of what players like to do and what is in the interest of casinos. The Examiner fails to address the differences between the inventions claimed in Claims 1-15 of the present application and the inventions recited in Claims 1-36 of the '898 patent.

If the Examiner persists with the present obviousness-type double patenting rejection, the Examiner is requested to consider the differences between the inventions set out in Claims 1-15 of the present application and then explain why it would have been obvious to a person having ordinary skill in the art to modify the inventions recited in Claims 1-36 of the '898 patent. The Examiner is also reminded that there has to be a reason to make these modifications, including adding other steps that are not claims in Claims 1-36 of the '898 patent and that include deleting steps that are claimed in Claims 1-36 of the '898 patent.

Applicants submit that all of the claims pending in this

application, Claims 1-15, are allowable over Claims 1-36 of the '898 patent and the Examiner is requested to reconsider the rejection of Claims 1-15 and to find that these claims are now allowable. If the Examiner has further questions regarding this application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,


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